

Access to Information About Hazardous and Toxic Substances Act (Employee Right-to-Know Law)

General Public Access Guide

Regulatory Authority

Labor and Employment Article, Title 5, Subtitle 4
Code of Maryland Regulations (COMAR), Title 9, Subtitle 12, Chapter 33
Code of Federal Regulations (CFR), 29CFR 1910.1200
Environment Article, Title 6, Subtitle 5

What is the Access to Information About Hazardous and Toxic Substances Act?

The Access to Information About Hazardous and Toxic Substances Act, often referred to as the Employee Right-to-Know law (ERTK), gives employees a way to learn about chemical hazards in the workplace and how to work safely with these materials. The law requires an employer to compile and maintain a chemical information list (CIL) containing the common name, chemical name, and work area for each hazardous chemical used or stored in a workplace. Employers must collect Material Safety Data Sheets (MSDS) for these substances, keeping them at the facility and accessible to employees.

A copy of the completed chemical information list, arranged by common name, in alphabetical order must be submitted to the Maryland Department of the Environment (MDE). Chemical information lists must be revised, realphabetized, and resubmitted to MDE every two years.

Are ERTK records considered "public records?"

Yes. A public record is defined as the original or copy of any documentary material in any form, to include written materials, books, photographs, photocopies, films, microfilms, records, tapes, computerized records, maps and drawings created or received by the Department in connection with the transaction of public business.

Who can request ERTK information from MDE?

MDE can provide access to ERTK information only to the following:

1. A person who provides fire, ambulance, or rescue services for the geographic area.
2. A nurse, physician, or physician assistant treating an individual in a medical emergency
3. A former employee of an inactive employer.
4. The Maryland Commissioner of Labor and Industry.
5. An independent contractor.
6. Any environmental organization in the State of Maryland.
7. Any civic or consumer organization in the State of Maryland.
8. Any individual who lives in a local community where a business stores, produces, or locates hazardous or toxic chemicals.
9. Any individual who lives in the nearest local community to a business that stores, produces, or locates hazardous or toxic chemicals.

Can I have access to all ERTK records?

No. Access to ERTK information is limited to specific records. Requests for access is screened to determine eligibility based on the criteria listed above, and is limited to only those records satisfying the criteria requirements.

What kind of information is available from ERTK reporting?

All employers in the State with one or more employee and with hazardous chemicals in the workplace must file a CIL with MDE, and provide Material Safety Data Sheets upon request. There is a zero threshold-reporting requirement, that is, any hazardous chemical in the workplace regardless of the amount has to be reported on the list.

The reporting format is as follows:

1. Common Name
2. Chemical Name
3. Work Area

The CIL must be:

1. Arranged in alphabetical order according to the common name.
2. Revised and realphabetized every 2 years.
3. Maintained for 40 years.

The employer compiling a CIL must ensure that:

1. The following information must appear on the first page of the list: the complete name and business address of the employer submitting the list; the name, and telephone number of a contact person; and the date of preparation or revision
2. Either the chemical or common name on the list is the identity shown on the MSDS and label.
3. When a chemical is added to the list, the date of addition appears next to the addition.
4. If symbols, letters, or numbers are used to identify work areas, the employer must also provide a key, map, or other descriptive identification.

The facility information including original and latest revision submission dates are maintained in a computer database. Chemical specific information is not computerized at this time.

The Maryland Occupational Safety and Health (MOSH) has been charged with administering and enforcing the law. Copies of the laws and regulations, instructions and guidance are available from:

Department of Labor, Licensing and Regulation

Division of Labor and Industry

Maryland Occupational Safety and Health

312 Marshall Avenue

Laurel, Maryland 20707

(410) 880-4970

www.dllr.state.md.us

How do I make a request for ERTK information?

The law requires that requests for ERTK information be in writing. For environmental, civic or consumer organizations the request must be on the organization's letterhead to show that they are a Maryland entity. Individuals who are not part of an organization need to provide their residence address in their requests so a determination concerning their local community or nearest local community can be made to satisfy those elements of the law prior to granting access. To provide the best possible service, MDE asks that you provide specific information concerning the record(s) in which you are interested. You should also

include as much specific facility information as possible. Facility name and full address, including zip code are extremely helpful in processing ERTK requests.

Requests for ERTK information should be sent to:

Maryland Department of the Environment
Technical and Regulatory Services Administration
1800 Washington Blvd
Baltimore, Maryland 21230
Attention: Mr. A. Balram
Phone: (410) 537-3446
Fax: (410) 537-3873

Can ERTK files be searched by zip code, map coordinates, watersheds, or tax map notations?

ERTK files cannot be searched by map coordinates, watersheds, or tax map notations. However, it can be searched by zip code.

Can MDE write, generate, or create reports and lists under ERTK?

Requests to write, generate, or create reports and lists are not covered under ERTK. Such requests are considered a special service request.

Are there fees related to ERTK?

ERTK is covered by the same fee structure as the Maryland Public Information Act (PIA).

Costs for Special Services

Complying with requests for special services is at the discretion of the Department. The Department will typically provide services only after agreement has been obtained in writing from the requester to pay for the special service. Fees for special services are computed to recover all reasonable costs to the State government rendering the service. All reasonable costs include all direct and indirect costs to conduct the search and review, and to duplicate the records.



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